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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/622,919 | 07/17/2003 | Alan G. Noraker | 1162-227 | 2754 |
| 7590 | 09/21/2004 | | EXAMINER | |
| David F. Zinger SHERIDAN ROSS P.C. Suite 1200 1560 Broadway Denver, CO 80202-5141 | | | ROWAN, KURT C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3643 | |
| DATE MAILED: 09/21/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/622,919 | NORAKER, ALAN G. | |
| | Examiner | Art Unit | |
| | Kurt Rowan | 3643 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 June 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5, 9, 10, 12, 13, 14, 15, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Fleming for substantially the same reasons stated in the first Office Action.

The patent to Fleming shows a fishing line container having a first flap 10,12 having an outer area and an inner area. Fleming shows a first strap 16 having an attached end and being defined by an open state and a closed state. The strap being usable to join a first spool to the flap when the strap is in a closed state. Fleming shows the first strap interconnected to the inner area 10 of the first flap. Fleming shows the first strap having an open state and a closed state. Fleming shows the first strap having an attaching end which is the end attached to area 12 of the flap. In the closed state, the attaching end being interconnected to the inner area of the first flap by way of the attached end of the first strap. In reference to claim 5, Fleming shows a flap with a hinged section 12 and a movable section 10 with the attached end of the strap being closer to the movable section than to the hinged section. In reference to claim 9, Fleming shows a cover 48. In reference to claim 13, Fleming shows a second cover 50 having a first connection segment 54 joined to the flap by way of edge portion 52. Fleming shows a second

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connection segment 40, 44, 36 joined to the flap adjacent the first connection segment.

In reference to claim 14, Fleming shows a flap with a hinged section 12 with hinge 14 at the junction between the hinged section 12 and the section 10 is a slot that forms an access hole adjacent the hinged section for receiving fishing line. In reference to claim 15, Fleming shows a primary container 22. In reference to claim 16, Fleming shows a support subassembly 56, 58.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fleming as applied to claim 1 above, and further in view of Uso, Jr.

The patent to Fleming shows a fishing line and tackle container as discussed above. Fleming shows a strap as a belt with a buckle. The patent to Uso shows a Velcro strap to retain fishing equipment. In reference to claim 4, it would have been obvious to provide Fleming with a Velcro strap as shown by Uso since merely one mechanical equivalent strap is being substituted for another and the function is the same.

5. Claims 6-7, 8, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleming.

The patent to Fleming shows a fishing line and tackle container as discussed above. Fleming does not show that the lateral extent of the inner area having a length and the

length of the first strap greater than one-half the length of the lateral extent. However, it would have been obvious to employ a first strap length greater than one-half the lateral extent since changes in size are obvious. See *In re Rose*, 105 USPQ 137. In reference to claim 7, Fleming shows one strap but it would have been obvious to employ two straps for multiplied effect. See *In re Harza*, 124 USPQ 378. In reference to claim 8, Fleming shows what appears to be a stitched connection between the belt or strap and the inner wall 10. Fleming shows a snap connection 58 to shut the tackle box. It would have been obvious to employ a snap connection is merely one connection is being substituted for another and the function is the same.

6. Claims 1, 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiser in view of Schloss.

The patent to Kiser shows a fishing line container having a flap 12 having an inner area and an outer area. Kiser shows at least a first strap 46, 46 having an attached end and being defined by a single state since the strap does not appear to move. The strap being usable to join a first spool 44 to said flap when the first strap is in its single state. The patent to Schloss shows a spool of line 4 having a strap 5 being usable to join the spool to flap 1 when in a closed state as shown in Fig. 2. The open state is shown in Fig. 1. In refernce to claims 1 and 17, 19, it would have been obvious to provide the fishing line and tackle container of Kiser with a strap as shown by Schloss since merely one strap is being substituted for and another and the function is the same. Since the strap frictionally holds the line, pulling the line from the spool causes tension in the line due to the force between the line and the strap. Schloss shows the both the first and

second section of the spool having the strap wrapped around the spool, but it would have been obvious to leave the second section of the spool free from the strap such as for example in situations when the spool is too thick for the strap to wrap around the second section which would be the top section in Fig. 2 or to bypass the bottom section of the spool and wrap the strap around the top section only which would result in the subject matter of claim 19. It should be pointed out that an omission of an element with consequent loss of its function is obvious. See *In re Kuhle*, 188 USPQ 7. Kiser shows a cover 16, 21 overlying the first spool as shown in Fig. 3. Kiser shows positioning at least portions of the first spool under the cover. It appears that the method shown by Kiser as modified by Schloss inserts the strap while the bore is located outwardly of the cover or how could the strap be inserted into the bore if the cover was closed? In reference to claim 23, Schloss shows in the closed state, a first surface of the strap at a first location along the strap is adjacent the first surface of the strap at a second location along the strap. In reference to claim 24, Schloss shows the area of the strap in the closed state having a length that is less than a diameter of the spool since the distance between 2 and 2a plus 3 and 3a is less than the distance between 3 and 2a as shown in Fig. 1.

Response to Arguments

7. Applicant's arguments filed June 23, 2004 have been fully considered but they are not persuasive. Applicant's arguments with respect to claim 1 have been addressed in the above rejection. Applicant should recite more structure to overcome the cited prior art such as the spool for example and how the strap loops through the spool and

reattaches to itself. In regard to claim 4, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is in the knowledge generally available to one of ordinary skill in the art. The patent to Uso is not cited to show a strap that in a closed stated has both an attached end and an attaching end that are interconnected to the inner area of a first flap. Uso is cited to show hook and loop material. In reference to claims 1, and 6-8, 11, Applicant argues that there is no suggestion to modify Fleming such that the strap would have an attached end and an attaching end interconnected to the inner area of the flap in a closed state. However, this argument is moot since this grounds of rejection has not been made. However, see the rejection of claim 1, above. In reference to claim 17, applicant argues a closed state, Kiser shows a closed state when both arms are over the spool. Applicant points out that Schloss wants two points of attachment and clearly that is the preferred status, but this does not preclude the elimination of one of the points of attachment noting the citation to Kuhle, above.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kurt Rowan
Primary Examiner
Art Unit 3643

KR